

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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OFFICE OF THE CLERK

MISSOUE TENGUE,

Plaintiff,

vs.

FATHER FLANAGAN'S BOYS' HOME,

Defendant.

CASE NO. 15-08-CV-252

COMPLAINT

I. JURISDICTION

Receipt # 8033945

1. Plaintiff invokes this Court's jurisdiction under 28 U.S.C. §1343(3) and (4), 42 U.S.C. §2000(e) et seq. This action is authorized pursuant to Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §2000(e) et seq.), 42 U.S.C. §1981 as amended, and the Court's pendent (supplemental) jurisdiction and is brought to remedy racial, color and national origin discrimination by the Defendant in imposing unwarranted and inappropriate discipline against the Plaintiff and demoting Plaintiff without justification and subjecting Plaintiff to a racially hostile work environment(also based on his race, color and national origin and treating Caucasian American employees more favorably than Plaintiff.

II. PARTIES

2. Plaintiff Missoude Tengue is a black male whose national origin is Togo, West Africa and said Plaintiff is a resident of the City of Omaha, Douglas County, Nebraska, and said Plaintiff is an "employee" within the meaning of 42 U.S.C. §2000(e), inasmuch as he was employed by Father Flanagan's Boys Home which is an employer having more than one hundred (100) employees in the Omaha, Nebraska area. .

3. Defendant Father Flanagan's Boys Home is a Nebraska non-profit corporation,

with its primary place of business in Nebraska, and doing business in the Omaha, Nebraska area and said Defendant is an "employer" within the meaning of 42 U.S.C. §2000(e), inasmuch as it employs more than one hundred (100) employees in Omaha, Nebraska. All of the acts complained of herein occurred in Omaha, Douglas County, Nebraska.

III. STATEMENT OF FACTS

4. Plaintiff began his employment with the Defendant in January, 2009 as a web programmer in Boys Town, Douglas County, Nebraska. Throughout his employment, Plaintiff has been subjected to a racially hostile environment which included, but was not limited to a.) demotion to a lower grade position in January, 2014 without justification by his white, female supervisor; b.) receiving unjustified unsatisfactory performance ratings, including in March, 2014 and denied a pay increase as a result; c.) being advised in March, 2014 he had been complained about by an unknown person without any specific identification of who complained and what the specifics of the complaint were; d.) in March, 2014 changing of his goals without informing him and without any reasonable basis to do so; e.) subjecting him to several meetings in which he was complained about in April and May, 2014 which complaints were not justified nor warranted; f.) being restricted from talking to his users without his supervisor's permission; g.) being substantially restricted in the use of his cell phone while at work. White employees of American origin were not subjected to any of the foregoing restrictions or actions and have received favorable evaluations and pay increases notwithstanding that Plaintiff's performance was substantially equivalent to said white employee(s). Plaintiff has complained to management about the racially hostile environment and Defendant has not taken any reasonable action against the individuals creating and causing said hostile environment. Furthermore Defendant's alleged

justifications for the actions against him are not credible and are a pretext for unlawful discrimination.

5. On or about November 24, 2014 Plaintiff filed a charge of employment discrimination with the Nebraska Equal Opportunity Commission (NEOC) and the Equal Employment Opportunity Commission (EEOC). On or about April 16, 2015 the EEOC issued a Notice of Right to Sue,. Said Notice of Right to Sue was received by Plaintiff on or after April 18, 2015.

6. As a result of the discriminatory actions complained of herein, Plaintiff has suffered substantial emotional distress and mental anguish, lost pay and wages and benefits and has incurred medical expenses and other expenses, and said discriminatory actions were taken by the Defendant with malice and a reckless disregard of Plaintiff's right to be free from unlawful discrimination and unlawful retaliation. Plaintiff's damages are ongoing and Plaintiff continues to suffer said losses and will continue to suffer them into the future.

WHEREFORE, Plaintiff prays as set forth below:

IV. FIRST CAUSE OF ACTION

7. Plaintiff refers to and incorporates by reference each and every allegation of Paragraphs 1 through 6 above as though fully set forth herein.

8.. The treatment complained of above violates 42 U.S.C. §2000(e) inasmuch as the conditions to which Plaintiff was subjected constitute discrimination against the Plaintiff on the basis of his race, color, national origin..

WHEREFORE, Plaintiff prays as set forth below:

V. SECOND CAUSE OF ACTION

9.. Plaintiff refers to and incorporates by reference each and every allegation of Paragraphs 1 through 10 above as though fully set forth herein.

10. The treatment complained of above violates 42 U.S.C. §1981, inasmuch as the treatment complained of herein is discrimination against the Plaintiff on the basis of his race, color national origin..

WHEREFORE, Plaintiff prays as set forth below:

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief against the Defendant:

A. Entry of a judgment that Defendant violated the rights of the Plaintiff under Title VII of the Civil Rights Act of 1991, as amended in 1991, 42 U.S.C. §1981.

B. An award of damages for any economic losses incurred by Plaintiff including, but not limited to lost pay and wages and benefits and medical and other expenses, as a result of Defendant's actions;

C. An award to Plaintiff of damages for emotional distress and mental anguish;

D. An award to Plaintiff of punitive damages on Plaintiff's First and Second,Causes of Action.

E. An award to Plaintiff of the cost of this suit and reasonable attorney's fees and expenses as allowed by 42 U.S.C. §2002, 42 U.S.C. §1988, and §48-1101 et seq.;

F. Such other and further relief as the Court may deem just and proper.

Plaintiff designates Omaha, Nebraska as place of trial.

Plaintiff requests and makes a demand for a jury trial.

DATED this ____ day of July, 2015.

MISSOUE TENGUE, Plaintiff,

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